

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**IN THE MATTER OF:**



MAHS Reg. No.: 15-022797  
Issue No.: 2007  
Agency Case No.: [REDACTED]  
Hearing Date: January 28, 2016  
County: WAYNE-DISTRICT 55

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 28, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by [REDACTED], Family Independence Manager.

**ISSUE**

Did the Department properly supplement Petitioner for her Medicare Savings Program (MSP) benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of MSP-Specified Low-Income Medicare Beneficiaries (SLMB) benefits.

2. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was approved for MSP benefits effective [REDACTED], ongoing. See Exhibit A, p. 8.
3. On [REDACTED] [REDACTED] [REDACTED], the Department sent Petitioner a determination notice notifying her that she was not eligible for MSP benefits effective [REDACTED], ongoing. See Exhibit A, p. 9.
4. On [REDACTED], the Department sent Petitioner a determination notice notifying her that she eligible for MSP benefits effective [REDACTED] [REDACTED], ongoing. See Exhibit A, p. 10.
5. The Department acknowledged that Petitioner is eligible for MSP benefits effective [REDACTED], ongoing.
6. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-4.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

#### **Preliminary matter**

As a preliminary matter, it was discovered during the hearing that Petitioner previously requested a hearing disputing the same issue that the

undersigned is addressing in today's hearing on [REDACTED]. Moreover, there was a hearing scheduled on [REDACTED], to address her prior hearing request (See Reg. No. 15-019044). However, Petitioner failed to participate in the hearing and the Department sent her an Order of Dismissal on [REDACTED]. Nonetheless, the undersigned will still address the current hearing request dated [REDACTED], based on a failure to process argument. See BAM 600 (October 2015), pp. 1-6. Even though Petitioner submitted a prior hearing request that was dismissed, her issue is still ongoing as the Department has yet to process her MSP supplements (failure to process argument). As such, the undersigned will address Petitioner's MSP concern below. See BAM 600, pp. 1-6.

### **MSP supplement**

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (October 2014 and January 2016), p. 1. Medicaid is also known as Medical Assistance ("MA"). BEM 105, p. 1.

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (October 2015 and January 2016), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Eligibility under the QMB exists when the net income does not exceed 100% of poverty. BEM 165, p. 1. SLMB program exists when the net income is over 100% of poverty, but not over 120% of poverty. BEM 165, p. 1. ALMB program exists when the net income is over 120% of poverty, but not over 135% of poverty. BEM 165, p. 1. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. BEM 165, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 165, p. 1. Full coverage QMB pays for Medicare premiums, co-insurances, and deductibles; limited

QMB/SLMB pays Medicare Part B premiums; and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2.

In this case, Petitioner sought to be reimbursed for her MSP benefits and there was no dispute from the Department that Petitioner should be reimbursed, but that it does take time to initiate the supplement. It also was not disputed that Petitioner did not receive any MSP supplements she was eligible to receive effective [REDACTED]. In fact, Petitioner provided a letter from the Social Security Administration (SSA) dated [REDACTED], [REDACTED] stating that she would be responsible for her Medicare Part B premium effective [REDACTED] and that this amount would be deducted from her Retirement, Survivors, and Disability Insurance (RSDI) income. See Exhibit A, pp. 5-6. Moreover, in January 2016, Petitioner testified that she did receive a letter stating that the State of Michigan would begin to pay her premium effective February 2016. As such, the evidence and testimony by both parties indicates that Petitioner is seeking MSP supplements for the time period of October 2015 to January 2016.

Based on the foregoing information and evidence, the Department failed to supplement Petitioner for any MSP benefits that she was eligible to receive but did not from [REDACTED], ongoing. The evidence established that the Department had subsequently reinstated Petitioner's MSP benefits, which resulted in no lapse in coverage. However, Petitioner has yet to be supplemented for her loss in coverage. As such, the Department will issue supplements to Petitioner for any MSP benefits she was eligible to receive but did not from [REDACTED], ongoing.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to supplement Petitioner for any MSP benefits that she was eligible to receive but did not from [REDACTED], ongoing.

Accordingly, the Department's MA/MSP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT

WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Issue supplements to Petitioner for any MSP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
2. Notify Petitioner of its decision.



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**Eric Feldman**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **1/28/2016**

Date Mailed: **1/28/2016**

EF / hw

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion. MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

cc:

